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DATE MAILED: 11/17/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/662,668	09/15/2000	Kia Silverbrook	IR22US	1572
24011 7	590 11/17/2004		EXAM	INER
SILVERBRO	LVERBROOK RESEARCH PTY LTD HERNANDEZ, NELSON D			
393 DARLING BALMAIN,			ART UNIT	PAPER NUMBER
AUSTRALIA			2612	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary    Description   Continue   Conti			Application No.	Applicant(s)			
Nelson D. Hernandaz   2612	Office Action Summary		09/662,668	SILVERBROOK, KIA			
- The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of them may be swilable under the provisions of 3° CRF. 1.136(b). In corout, however, may a reply be timely filled after SIX (5) MCMT-Fis from the realing date of this communication.  Extensions of time may be swilable under the provisions of 3° CRF. 1.136(b). In corout, however, may a reply be timely filled after SIX (5) MCMT-Fis from the mailing date of this communication of the communicat			Examiner	Art Unit			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Estimated of time may be available index the provisions of 37 CFR 1.35(a). In no event, however, may a reply be timely filled.  Et the period for regly specified above, the maximum statutory period will apply and will copies SX (6) MONTHS from the maining date of this communication for regly specified above. The maximum statutory period will apply and will copies SX (6) MONTHS from the maining date of this communication. Any produce any specified above. The maining date of this communication, and produced any specified above. The maining date of this communication, and produced any specified above. The maining date of this communication, and produced any specified above. The maining date of this communication, and produced any specified above. The maining date of this communication, and produced any specified above. The maining date of this communication, and produced any specified and produced			Nelson D. Hernandez	2612			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Estations of term may be revalidate under the provisions of 30°CR 1.13(d). In no overst, however, may a reply be timely filled  Estations of term may be revalidate under the provisions of 30°CR 1.13(d). In no overst, however, may a reply be timely filled  If the period for reply signed flow one is less than thisty (30) days, a reply within the statutiony maintain of the reply in the sold or each reply signed for reply within the sold or each reply within the sold or reply within the sold or each reply within the sold			appears on the cover sheet with	h the correspondence address			
THE MAILING DATE OF THIS COMMUNICATION.  Edentations of time raply available under the provisions of 37 CPR 1.13(g). In no event, however, may a reply be timely filed after SIX (8) MONTHS from the mailing date of this communication.  It the protoid reply syndrine does it least than they gold days, a reply within the stability may be a set or extended period for reply within the stability of the protoid of the communication.  Failure to reply within the set of createrided period for reply will, by stability, cause the application to become ABANDONED (38 U.S.C. § 133). Any reply sweeded by the Office the trian time removals after the mailing date of this communication, even if firmly filed, may reduce any consideration of the protoid potent term adjustment. Set 37 CFR 1.704(s)  Status  1)  Responsive to communication(s) filed on 24 August 2004.  2a) This action is FINAL.  2b) This action is non-final.  3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)  Claim(s)		, ,					
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Application/Control Number: 09/662,668

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## **DETAILED ACTION**

## **Double Patenting**

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

- 2. Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 09/663,476. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 is a broader recitation of the same invention claimed in the amended application 09/663,476 received on August 25, 2004. The claims are substantially the same except that claim 1 in '476 includes that the ink supply means comprises an ink supply cartridge which defines a plurality of ink supply channels, each of which is in communication with the print head and each channel containing a different color ink in use for enabling full color printing to be effected has been replaced with "photodetector" in the application.
- 3. Claim 2 is substantially the same as in the '476 claim 2.

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4. Claim 3 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 3 of copending Application No. 09/663,476. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 3 in '476 refers to a casing being of a recyclable material and claim 3 in '668 refers to a casing that is recyclable. It is well known that a recyclable casing can be made with a recyclable material.

This is a <u>provisional</u> obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

## Allowable Subject Matter

5. Claims 4-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

## Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

## Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nelson D. Hernandez whose telephone number is (703) 305-8717. The examiner can normally be reached on 8:30 A.M. to 6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy R. Garber can be reached on (703) 305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NDHH November 12, 2004 Nelson D. Hernandez

Examiner Art Unit 2612

WENDY HI GAVILLE EXAMINER
SUPERVISORY PARENT EXAMINER
TECHNOLOGY CENTER 2600